

ORIGINAL



**DEPARTMENT OF INFORMATION TECHNOLOGY
AND TELECOMMUNICATIONS**

11 Metro Tech Center, 3rd Floor
Brooklyn, NY 11201
(718) 403-8076
(718) 403-8508 (fax)

EX PARTE OR LATE FILED

GINO MENCHINI
Commissioner

AGOSTINO CANGEMI
Deputy Commissioner

November 4, 2002

BY HAND DELIVERY

Marlene H. Dortch, Secretary
Federal Communications Commission
Office of the Secretary
445 12th Street, SW
Washington, DC 20554

RECEIVED

NOV - 6 2002

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Re: **Ex Parte Notice:**
WT Docket No. 02-55
CN Docket No. 00-185, CS Docket No. 02-52

Dear Ms. Dortch:

In accordance with Section 1.1206 of the Commission's Rules, 47 C.F.R. § 1.1206, the City of New York submits this notice of *ex parte* presentation. On October 29, 2002, the following persons representing the City of New York (collectively, the "City Participants") met with Mr. R. Paul Margie, Legal Advisor, Office of Commissioner Michael J. Copps: Judy Chessner, Director, Federal Affairs Office; Elizabeth McCabe, Legislative Representative, Federal Affairs Office; Agostino Cangemi, Deputy Commissioner, Department of Information Technology and Telecommunications ("DoITT"); Steven Harte, Associate Commissioner, DoITT; Mitchel Ahlbaum, Special Counsel for Regulatory Affairs, DoITT; and Henry Jackson, Deputy Commissioner, Office of Emergency Management. The meeting included discussions on two pending rulemaking proceedings at the Commission.

First, the City Participants discussed with Mr. Margie issues raised in the cable modem service rulemaking proceeding (In the Matter of Inquiry Concerning High Speed Access to the Internet Over Cable and Other Facilities, Internet Over Cable Declaratory Ruling, Appropriate Regulatory Treatment for Broadband Access to the Internet Over Cable Facilities, GN Docket No. 00-185, CS Docket No. 02-52). The City Participants stated that the Commission should not attempt to prohibit cities from franchising cable modem service. The City Participants stated that categorization by the Commission of cable modem service as an "information service," does not permit the Commission now

Quality Service Through Technology

to limit local franchising of such service. According to the City Participants, a contrary decision would face legal challenge, create uncertainty, slow the rollout of cable modem service, and cause economic and non-economic damage to the City. These statements are reflected in the Comments and Reply Comments that have been filed by the City in this proceeding.

Second, the City Participants discussed with Mr. Margie issues raised in the 800 MHz public safety rulemaking proceeding (“Improving Public Safety Communications in the 800 MHz Band and Consolidating 900 MHz Industrial/Land Transportation and Business Pool Channels, WT Docket No. 02-55”). The City Participants stated that the City continues to experience substantial commercial interference to its public safety communications in the 800 MHz band. The City Participants stated that the Commission should not adopt any proposal to realign the 800 MHz public safety spectrum absent prior identification and allocation of sufficient funds to cover the costs of government implementation, and absent a framework guaranteeing that public safety systems remain fully operational during any transition period. These statements are similarly reflected in the Comments and Reply Comments to the “Consensus Plan” that have been filed by the City in this proceeding.

Pursuant to Section 1.1206 of the Commission’s Rules, the City of New York is filing two originals and two copies of this letter (one original and one copy for each referenced proceeding) with the Commission Secretary, as well as one copy with Mr. Margie.

Please do not hesitate to contact me with any questions concerning this meeting or this notice.

Respectfully submitted,



Agostino Cangemi
Deputy Commissioner
Franchise Administration and Planning and
General Counsel
Department of Information Technology and
Telecommunications

cc: Mr. R. Paul Margie